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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

**SYNA-20030715-01**

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on Jun 30, 2006

Signature

Typed or printed name Kristel Lang

Application Number

10/635,748

Filed

08/05/2003

First Named Inventor

Robert J. BOLENDER

Art Unit

2629

Examiner

Beck, A. S.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)
- ☒ attorney or agent of record.  
Registration number 35,398
- ☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Signature

John P. Wagner, Jr.

Typed or printed name

408-938-9060

Telephone number

06/30/2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 2 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Remarks Accompanying Pre-Appeal Brief Request For Review

In response to the final Office Action dated April 5, 2006, Applicants respectfully request a review of the final rejection in the above-identified application. Applicants respectfully submit that the Examiner's rejection of the Claims 39-40 and 43 under 35 U.S.C. §102(e) as being anticipated by Bick, U.S. Patent No. 6,924,789 (hereinafter Bick) is improper as an essential element needed for a proper prima facie rejection is missing. Claim 41 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bick. Claims 1-4, 13-15, 21, 25, 26, 44-46, 55-59, 67 and 68 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Seely et al., U.S. Patent No. 6,188,391 (hereinafter Seely). Claims 5-12, 16-20, 22-24, 47-54 and 60-66 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick and Seely as applied to Claims 1, 2, 14, 15, 39, 44, 45 and 58, and further in view of Kleinhans et al., U.S. Patent No. 6,664,489 (hereinafter Kleinhans). Claims 27-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Seely and Kleinhans. Applicants respectfully submit the rejections are prima facie improper.

Rejection under 35 U.S.C. §102(e)

KEY CLAIM LIMITATIONS THAT ARE NOT MET BY THE CITED REFERENCES

Independent Claim 39 recites in part:

a capacitive sensor that is coupled to said keymat and said keypad structure, wherein said capacitive sensor is integrated within said keymat.

Applicants respectfully assert that Bick fails to teach the capacitive sensor integrated within the keymat as recited in Independent Claim 39 and clearly shown in Figure 11 and described in the Specification including page 26 lines 20 through page 27 lines 10. Specifically, "capacitive sensor device 1104 has been integrated within the rubber material of keymat assembly 1100."

**According to the Federal Circuit, "[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration" (W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983)).**

In the current Office Action, the Examiner makes reference to Bick in supporting the grounds of rejection. However, Applicants respectfully assert that Bick teaches a capacitive sensor 19 that is positioned below a keymat 17 (see Figs. 3 and 4; col. 2, lines 51-53). Since Bick fails to teach the capacitive sensor integrated within the keymat as recited in Independent Claim 39, Applicants respectfully contend that Bick cannot anticipate Claim 39. Therefore, Applicants respectfully state that Bick is missing an essential element for a prima facie anticipation as claimed in Independent Claim 39 and as such the rejection under 35 U.S.C. §102(e) is improper and should be reversed.

In the after final response dated June 13, 2006, the Examiner has stated that the specification does not specifically define the claimed features including the capacitive sensor integrated within said keymat.

Applicants respectfully submit that the terms integrated and within are defined in Merriam-Webster 2005.

Integrated: to form, coordinate, or blend into a functioning or unified whole and  
Within: in; inside of; into the interior.

Moreover, Applicants submit that the specification clearly defines the feature of a capacitive sensor integrated within said keymat in the Specification on page 26 lines 20 through page 27 lines 10 wherein the integration is described as “capacitive sensor device 1104 has been integrated within the rubber material of keymat assembly 1100” (emphasis added). Figure 11 provides additional claim support.

Moreover, Applicants respectfully submit the “capacitive sensor is integrated within said keymat” words of the claim must be given their plain meaning. In other words, they must be read as they would be interpreted by those of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 218 USPQ 385 (Fed. Cir. 1983). Therefore, the integrated terminology is clearly defined in the Specification and the Figures and should be interpreted accordingly. For this further reason, Applicants respectfully state that Bick is

missing an essential element for a prima facie anticipation as claimed in Independent Claim 39 and as such the rejection under 35 U.S.C. §102(e) is improper and should be reversed.

Additional arguments provided on pages 14-15 of the after final response to the Non-Final Office Action mailed April 5, 2006 are also referenced as evidence that Bick does not anticipate the claimed features. Moreover, Claims 40, 43, 44-46-55 and 57 are allowable as depending on independent Claim 39 and reciting additional features.

Rejection under 35 U.S.C. §103(a)

Claim 41 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bick.

Applicants respectfully contend, for the reasons provided herein, that Bick does not teach or render obvious the integrated keymat of Claim 39. As such, Applicants respectfully submit that Bick does not teach or render obvious the claimed feature of Claim 41 which is dependent on an allowable Independent Claim 39.

For this reason, Applicants respectfully state that Bick is missing an essential element for a prima facie obviousness as claimed in Independent Claim 39 and as such the rejection of Claim 41 under 35 U.S.C. §103(a) is improper and should be reversed

CLAIMS 1-4, 13-15, 21, 25, 26, 44-46, 55-59, 67 and 68

Claims 1-4, 13-15, 21, 25, 26, 44-46, 55-59, 67 and 68 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Seely et al. (6924789). Applicants respectfully assert that Bick and Seely et al., alone or in combination, fail to teach or suggest subject matter recited within Independent Claims 1, 14, 27 and 58.

Specifically, Applicants respectfully contend that Bick and Seely et al., alone or in combination, do not teach or suggest the substantially transparent single sheet capacitive sensor integrated within the keymat as recited in Independent Claim 1 (Independent Claims 14, 27 and 58 recite similar features). For the same reasons that Bick does not

teach or render obvious the capacitive sensor integrated within said keymat of Claim 39, Applicants respectfully submit that Bick in combination with Seely et al. does not teach or render obvious the claimed features of Independent Claims 1, 14, 27 and 58 (emphasis added).

For this reason, Applicants respectfully state that Bick and Seely et al. are missing an essential element for a prima facie obviousness as claimed in Independent Claims 1, 14, 27 and 58 and as such the rejection under 35 U.S.C. §103(a) is improper and should be reversed. Also, Applicants respectfully submit Claims 2-4, 13, 15, 21, 25, 26, 44-46, 55-57, 59, 67 and 68 depend from Independent Claims 1, 14, 39 and 58 and derive patentability at least therefrom.

#### CLAIMS 5-12, 16-20, 22-24, 47-54 and 60-66

Claims 5-12, 16-20, 22-24, 47-54 and 60-66 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Seely et al. and further in view of Kleinhans et al. (6664489). Applicants respectfully assert that Bick and Seely and Kleinhans et al., alone or in combination, fail to teach or suggest subject matter recited within Independent Claim 1.

For instance, Independent Claim 1 recites in part (Independent Claims 14, 27 and 58 recite similar features). For the same reasons previously provided, e.g., the capacitive sensor integrated within said keymat, Applicants respectfully state that Bick and Seely et al. in view of Kleinhans et al. are missing an essential element for a prima facie obviousness as claimed in Independent Claims 1, 14, 27 and 58 and as such the rejection under 35 U.S.C. §103(a) is improper and should be reversed. Also, Applicants respectfully submit Claims 5-12, 16-20, 22-24, 47-54 and 60-66 depend from Independent Claims 1, 14, 39 and 58 and derive patentability at least therefrom.

#### CLAIM 42

Claim 42 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Kleinhans et al.

Applicants respectfully contend, for the reasons provided herein, that Bick in view of Kleinhans et al. does not teach or render obvious the integrated keymat of Claim 39. As such, Applicants respectfully submit that Bick does not teach or render obvious the claimed feature of Claim 42 which is dependent on an allowable Independent Claim 39.

For this reason, Applicants respectfully state that Bick is missing an essential element for a prima facie obviousness as claimed in Independent Claim 39 and as such the rejection of Claim 42 under 35 U.S.C. §103(a) is improper and should be reversed

#### CLAIMS 27-38

Claims 27-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bick in view of Seely et al. and further in view of Kleinhans et al. Applicants respectfully assert that Bick, Seely and Kleinhans, alone or in combination, fail to teach or suggest subject matter recited within Independent Claim 27. For instance, Independent Claim 27 recites in part:

wherein said capacitive sensing device is coupled to a keymat and a keypad structure, said capacitive sensing device integrated within said keymat.

Applicants respectfully contend that Bick, Seely and Kleinhans, alone or in combination, do not teach or suggest the capacitive sensor integrated within the keymat as recited in Independent Claim 27. Since Bick, Seely and Kleinhans, alone or in combination, fail to teach or suggest at least one element recited in Independent Claim 27, Applicants respectfully contend that Independent Claim 27 is not rendered obvious by Bick, Seely and Kleinhans. For the same reasons previously provided, Applicants respectfully state that Bick and Seely in view of Kleinhans are missing an essential element for a prima facie obviousness as claimed in Independent Claim 27 and as such the rejection under 35 U.S.C. §103(a) is improper and should be reversed. Also, Applicants respectfully submit Claims 28-38 depend from Independent Claim 27, Applicants respectfully submit Claims 28-38 derive patentability at least therefrom.